

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

IN RE: PROTECTIVE ORDER )  
 ) Case No.:

***PETITIONER DARREN WILSON'S COMPLAINT AND MOTION  
FOR PROTECTIVE ORDER***

COMES NOW Petitioner Darren Wilson (“Petitioner”) and for his Complaint and Motion for Protective Order, moves the Court for a protective order and in support thereof state the following:

1. Dorian Johnson has sued, *inter alia*, Darren Wilson in the Circuit Court of St. Louis County, Missouri (Cause Number: 15SL-CC01488-01) after remanded by this District (4:15-cv-00832-AGF).
2. Pursuant to subpoena, the United States was commanded to appear for a deposition and produce certain documents. Ex. A.
3. Based on the Motion for Summary Judgment regarding the City of Ferguson, the United States and Defendant agreed to postpone compliance until further information was known regarding the scope of the subpoena (whether it could be narrowed).
4. On November 29, 2023, the Honorable Judge Thomas Albus of the Circuit Court of St. Louis County, Missouri, entered an Order granting partial summary judgment, *inter alia* entering judgment on behalf of the City of Ferguson and against Plaintiff. This narrowed the scope of documents which was pertinent and discoverable in the matter.
5. The undersigned informed the United States of America through the U.S. Attorney's Office regarding the narrowed scope.

6. After complying with *Touhy* with respect to requesting documents from the United States, Dorian Johnson, Darren Wilson, and the United States of America have consented to a protective order. Ex. B.
7. Petitioner now files this collateral action under the A.P.A. for entry of said protective order.
8. The United States of America has requested issuance of this Protective Order for the safety and protection of witnesses contained and referenced in the documents to be produced.
9. The United States of America has been working with the Federal Bureau of Investigation regarding the production of documents responsive to the subpoena.
10. The parties and the United States of America respectfully request this Court to enter the protective order, as the Circuit Court of the St. Louis County, Missouri, lacks jurisdiction and authority over the United States of America to do so. *See Jacob v. Witty*, 8:22CV135, 2022 WL 4324962, at \*2 (D. Neb. Sept. 19, 2022); Zoe Niesel, *Terrible Touhy: Navigating Judicial Review of an Agency's Response to Third-Party Subpoenas*, 41 Cardozo L. Rev. 1499, 1535 (2020); *State v. Quinn*, 674 S.W.3d 47, 56 (Mo. App. E.D. 2023) (“In essence, the *Touhy* regulations act as a jurisdictional limitation on a state trial court's authority.”), reh'g and/or transfer denied (July 11, 2023), transfer denied (Sept. 26, 2023).
11. Defendant respectfully requests that this Court enter a Protective Order consistent with Exhibit B.

WHEREFORE, Defendants respectfully request that this Court grant Petitioner's Petitioner and Motion for Protective Order, and for such further relief this Court deems just and proper.

/s/ Robert T. Plunkert

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I, the undersigned, certify that the original pleading was signed by the attorney of record and a copy of the foregoing has been electronically served on all counsel of record via the Missouri eFiling System, or U.S. mail for parties not registered for the Missouri eFiling System, on this 28th day of February, 2024 to:

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/s/ Phillip B. Schatz

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